

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

RODERICK LEON CASEY,

Plaintiff,

v.

OREGON DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

1:14-cv-1973-TC
ORDER

MCSHANE, Judge:

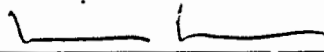
Magistrate Judge Thomas M. Coffin filed a Findings and Recommendation (ECF No. 34), and the matter is now before me. *See* 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Plaintiff filed objections to the Findings and Recommendation. Accordingly, I have reviewed the file of this case *de novo*. *See* 28 U.S.C. § 636(b)(1)(c); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). I find no error and conclude the report is correct.

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Although Mr. Casey attempts to portray this action as more than mere negligence on the part of defendants, this is essentially a medical malpractice case. "Medical malpractice does not become a constitutional violation merely because the victim is a prisoner." *Estelle v. Gamble*, 429 U.S. 97, 106 (1976). Even assuming Mr. Casey states a valid claim, Nurse Vickerman is clearly entitled to qualified immunity for failing to adequately diagnose the extent of Mr. Casey's injuries and failing to assign him a lower bunk.

Magistrate Judge Coffin's Findings and Recommendation (ECF No. 34) is adopted in full. Defendants' Motion for Summary Judgment (ECF No. 25) is GRANTED.
IT IS SO ORDERED.

DATED this 6th day of June, 2016.



Michael McShane
United States District Judge